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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
HARRIS, CHANDA L	
ART UNIT	**PAPER NUMBER**
3714	

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary	Application No.	Applicant(s)	
	10/765,749	KUCINSKI ET AL.	
	Examiner	Art Unit	
	Chanda L. Harris	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 29 November 2004.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-25 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-25 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

In response to the Amendment filed 11/29/04, Claims 1-25 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8, 13-14, and 17-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Poor (US 5,672,060). The rejection from the previous office action is maintained and is incorporated herein by reference.

1. [Claims 1, 17]: Regarding Claims 1 and 17, Poor discloses viewing a first visual image of a first portion of an answer page, the first portion comprising an answer space (i.e., a screen) in which an answer to an open-ended question (i.e., nonobjective assessment material) is expected to reside. See Col.5: 45-57. Poor discloses if the first portion of the answer page contains a complete answer, electronically scoring the answer (i.e., record judgments). Poor discloses if the first portion of the answer page does not encompass a complete answer, accessing and viewing a second visual image

of a second portion of the answer page (i.e., by scrolling), the second portion comprising a sector of the answer page outside the answer space (i.e., outside the vertical display capability of the computer screen), and electronically scoring the answer. See Col.9: 6-12.

In response to Applicant's arguments, Examiner considers the answer space to correlate to the computer screen in Poor in light of Col.9: 6-12.

2. [Claim 2]: Regarding Claim 2, Poor discloses wherein the viewing step comprises receiving the first and second visual image through a processor (i.e., computer) onto a display device (i.e., computer monitor). See Col.9: 6-12.

3. [Claim 3]: Regarding Claim 3, Poor discloses entering an electronic scoring system; requesting to view an answer to score; and receiving the first visual image from a queue comprising a plurality of answer images. See Col.9: 14-24.

4. [Claims 4, 20-21]: Regarding Claims 4 and 20-21, Poor discloses wherein the electronically scoring step comprises selecting a numerical score for the answer from a score sector (i.e., window in which judgments can be displayed); wherein the scoring protocol comprises a numerical score range for answers to the test question; and wherein the first visual image comprises a score selection element, and the formatting step comprises including the score selection element as displayed by the display protocol. See Col.9: 16-19.

5. [Claims 5, 22-23]: Regarding Claims 5 and 22-23, Poor discloses wherein the score sector comprises a score button bar (i.e., key) displayed on a common display with the first visual image; wherein the score selection element comprises a score button bar;

and wherein the first display screen further comprises a score selection element. See Col.9: 16-19.

6. [Claims 6-8, 24-25]: Regarding Claims 6-8 and 24-25, Poor discloses if the first and the second visual image do not encompass a complete answer, of repeating the accessing and viewing steps until substantially the entire answer page is viewed and wherein, if the entire answer page does not encompass a complete answer, viewing a first visual image of a second answer page to search for a complete answer. Poor discloses wherein the viewing steps comprise receiving the first and second visual image through a processor onto a display device, and the accessing step comprises electronically manipulating a scroll bar on the display device. See Col.9: 6-12. The part of the screen in Poor wherein the user views the completion of answer by scrolling in Poor is considered by Examiner to be a second answer page.

7. [Claims 13-14]: Regarding Claims 13 and 14, Poor discloses wherein the answer comprises a calibration answer (i.e., validity item), and further comprising the steps of receiving a score and comparing the received score with a target score (e.g., 80% correct scoring) and calculating a reader effectiveness from the comparing step (i.e., 80% correct scoring). See Col.9: 48-57.

8. [Claim 18]: Regarding Claim 18, Poor discloses determining a batch comprising a plurality of answers to be scored, the plurality of answers comprising a plurality of answers to be scored, the plurality of answers comprising answers to a unitary test question; fetching answer page images corresponding to the determined batch from a storage device; and holding the fetched answer page images in a cache. See Col.8:

53-Col.9: 5. It is Examiner's position that the answers in Poor are capable of being answers to a unitary test question.

9. [Claim 19]: Regarding Claim 19, it is Examiner's position that Poor's invention is capable of prior to the formatting and transmitting steps, of retrieving a scoring (e.g., manuals describing specific instructions for grading the assessment items in a particular project) and a display protocol for answers to the test question. See Col.9: 6-12 and Col.10: 22-25.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 9 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poor in view of Clark et al. (US 5,321,611). The rejection of the previous office action is maintained and is incorporated herein by reference.

1. [Claim 9]: Regarding Claim 9, Poor does not disclose expressly if a question (i.e., discrepancy) occurs during the scoring step, electronically transmitting a query (i.e., test item) to a supervisor (i.e., a third resolver). However, Clark teaches such in Col.7: 38-41. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate electronically transmitting a query to a supervisor if

a question occurs during a scoring step into the method and system of Poor, in light of the teaching of Clark, in order to resolve a discrepancy.

2. [Claims 15-16]: Regarding Claims 15 and 16, Poor does not disclose expressly the steps of calculating a time span between a first visual image viewing step and the scoring step, and comparing the time span with a target scoring time (i.e., goal) or the step of calculating a reader efficiency from the time-span comparing step . However, Clark teaches such in Col.8: 36-42, 49-52. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of Clark, in light of the teaching of Poor, in order to track a resolver's performance.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Poor in view of Walker et al. (US 6,093,026).

[Claim 10]: Regarding Claim 10, Poor does not disclose expressly wherein the answer comprises an answer in verbal form (i.e., audio input free form response). However, Walker teaches such in Col.5: 26-29. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate an answer in verbal form into the method and system of Poor, in light of the teaching of Walker, in order to provide an alternative for inputting a free form response.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Poor in view of Martinez (US 5,211,564).

[Claim 11]: Regarding Claim 11, Poor does not disclose expressly wherein the answer comprises a geometric diagram. However, Martinez teaches such (e.g., line) in Col.5: 21-24. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a geometric diagram into the method and system of Poor, in light of the teaching of Martinez, in order to enable a figural response to a test item.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Poor/Martinez as applied to claim 11 above, and further in view of Bier et al. (US 5,581,670).

[Claim 12]: Regarding Claim 12, Poor/Martinez does not disclose expressly the step of accessing an electronically manipulable display of a geometric tool (i.e., click-through button tool that measures geometric properties) for assessing the geometric item. However, Bier teaches such in Col.20: 22-34. Therefore, at the time of the invention, it would have been obvious tone of ordinary skill in the art to incorporate an electronically manipulable tool into the method and system of Poor/Martinez, in light of the teaching of Bier, in order to measure geometric properties.

Response to Arguments

Applicant's arguments have been fully considered but they are not persuasive. See rejection and explanation above. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 571-272-4448. The examiner can normally be reached on M-F 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jessica Harrison can be reached on 571-272-4449. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chanda L. Harris
Primary Examiner
Art Unit 3714